



Reissue Serial No. 09/488,099

### **REMARKS**

The Office Action mailed January 2, 2002, has been received and reviewed. Claims 1 through 50 are currently pending in the application. Claims 1 through 50 stand rejected. Applicants have canceled claims 1-16 and 27-45, and respectfully request reconsideration of the application as amended herein.

#### **Objection to Reissue Oath/Declaration**

The reissue oath/declaration filed with this application has been objected to as being defective, inasmuch as it does not cover claims 27 through 50. Applicants' undersigned attorney will secure a Supplemental Reissue Declaration from the inventors upon an indication of allowable subject matter. The Examiner's indulgence is respectfully requested in this regard, due to the Information Disclosure Statement issue discussed below, which may impact prosecution of this application if there is, indeed, material information known to the Examiner but of which Applicants' undersigned attorney is unaware.

#### **35 U.S.C. § 101 Double Patenting Rejection Based on U.S. Patent No. RE 36,518**

Claims 1 through 16 stand rejected under 35 U.S.C. § 101 as claiming the same invention as that of claims 1 through 16 of prior U.S. Patent No. RE 36,518. Applicants have canceled claims 1 through 16.

#### **Nonstatutory Double Patenting Rejection Based on U.S. Patent No. RE 36,518**

Claims 17 through 26 and 46 through 50 stand rejected under the judicially created doctrine of obviousness-type double patenting as being unpatentable over claims 1-25 of U.S. Patent No. RE 36,518. In order to avoid further expenses and time delay, Applicants elect to expedite the prosecution of the present application by filing a terminal disclaimer to obviate the double patenting rejections in compliance with 37 CFR §1.321 (b) and (c). Applicants' filing of the terminal disclaimer should not be construed as acquiescence of the Examiner's double

patenting or obviousness-type double patenting rejections. Enclosed are the terminal disclaimer and accompanying fee.

### **35 U.S.C. § 251 Claim Rejections**

Claims 27 through 45 stand rejected under 35 U.S.C. § 251 as being an improper recapture of broadened claimed subject matter surrendered in the application for the patent upon which the present reissue is based. Applicants have canceled claims 27 through 45.

### **Information Disclosure Statement**

Pursuant to Examiner's request, Applicants have provided an Information Disclosure Statement with this response. It is noted that U.S. Patent Re. 36,518, the parent application hereto, was printed with literally dozens of "References Cited" of which Applicants' undersigned attorney has no record or knowledge. Applicants' undersigned attorney has reviewed the file of U.S. Patent 5,229,326 provided to him by the assignee of this application, and found only a PTO-892 listing five (5) of the U.S. Patents listed in the Information Disclosure Statement and PTO-1449 filed herewith. Likewise, Applicants undersigned attorney has located, in the file of the parent application hereto, an Information Disclosure Statement citing two (2) U.S. Patents and three (3) foreign patent documents (two (2) Japanese and one (1) German) which are also listed in the accompanying Information Disclosure Statement and PTO-1449 filed herewith. Copies of the listed documents are also provided.

Applicants and their undersigned attorney have no idea as to the origin of the additional documents cited in the "References Cited" section of U.S. Patent Re.36,518. This was the reason Applicants' undersigned attorney did not previously file an Information Disclosure Statement, as there was no additional material information to be brought to the attention of the Office.

Applicants note that the present Examiner was also the Examiner during the prosecution of the parent reissue application as well as during at least a part of the prosecution of the original application leading to U.S. Patent 5,229,326. Should the Examiner be in possession of any documentation indicating that the additional references unknown to present counsel were, at any

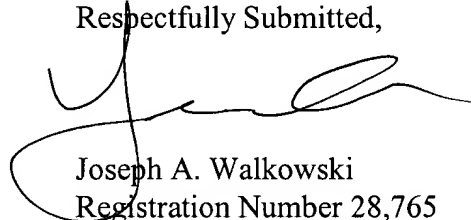
time, cited during the prosecution of a related application or even have a recollection of the citation of such documentation or its materiality, Applicants' undersigned attorney would be happy to attempt to compile a collection of these additional documents.

Applicants' undersigned attorney would appreciate a telephone call from the Examiner with respect to this issue at the Examiner's convenience so that a course of action may be agreed upon.

### CONCLUSION

Claims 17 through 26 and 46 through 50 are believed to be in condition for allowance, subject to the filing of a Supplemental Reissue Declaration, and an early indication of their allowability is respectfully requested. Should the Examiner determine that issues remain (in addition to the Information Disclosure Statement issue referenced above) which might be resolved by a telephone conference, he is respectfully invited to contact Applicants' undersigned attorney.

Respectfully Submitted,



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